

**BEFORE THE ARIZONA BOARD OF  
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

<b>IN THE MATTER OF:</b>	)	<b>BOARD ORDER OF PROBATION</b>
	)	<b>FOR ISSUANCE OF LICENSE</b>
<b>DAVID WILLIAM NYMAN, D.O.)</b>		
Holder of License No. 3823 for the	)	
practice of osteopathic medicine	)	
in the State of Arizona.	)	
_____	)	

**FINDINGS OF FACT**

1. The Board of Osteopathic Examiners of the State of Arizona ("Board") is the duly constituted authority for the regulation and control of the practice of osteopathic medicine in the State of Arizona.
2. David William Nyman, D.O., (hereafter "Respondent") is the applicant for license to practice osteopathic medicine in the State of Arizona.
3. The Board has reviewed Respondent's application for license during a public Board Meeting concerning the Respondent's medical history, prior addition to a controlled substance, prior licensing history and all other relevant issues concerning his qualifications to obtain a Board license. The Board also reviewed information regarding Respondent's history of rehabilitation and treatment. The Board has arrived at its findings of fact based upon all the information provided to the Board and made a part of the administrative record.
4. On September 14, 2002, during its public meeting the Board authorized preparation of an order granting Respondent a license to practice as an osteopathic physician in the State of Arizona, but, said license shall be placed on probation and subject to specific restrictions that are set forth more specifically hereafter.

### CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 32-1800, *et seq.*, the Arizona Board of Osteopathic Examiners in Medicine and Surgery possesses jurisdiction over the subject matter hereof and over the application for license submitted by David William Nyman, D.O.
2. The Board has the authority to enter a final order and to enter into an agreement for the disposition of this matter pursuant to A.R.S. § 32-1822(D).
3. Based upon the Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority to order probation of Respondent's license.

### ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Respondent be issued Board License Number 3823 for the practice of osteopathic medicine and surgery in the State of Arizona and Respondent is hereby placed under **PROBATION** for **THREE (3) YEARS** and shall comply with the terms and conditions of probation as set forth herein:
2. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until she has submitted a written request to the Board and obtained Board

approval.

3. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board detailed written progress report every month for the remainder of the probation; and Respondent, shall waive any confidentiality concerning her psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

5. Respondent shall have his medical practice monitored by another physician approved by the Board, for a period of six (6) months, and the physician shall provide monthly progress reports.

6. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- A. The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- B. There are new grounds for finding unprofessional conduct concerning Respondent; or,
- C. Fails to comply fully with the terms and conditions of this Order.

7. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any medication, unless such

medication is prescribed for him by his primary treating physician by the following workday.

Respondent shall maintain a monthly log (for the duration of the probation) and provide a copy of the log to the Board at the first of each month listing all medications taken by him and such log shall include the following information:

- a. the name of the medication;
- b. name of prescribing physician;
- c. reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of <sup>his</sup> ~~her~~ log reflecting the above information.

7. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide [i.e., within sixty (60) minutes of notification] required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. Respondent shall participate in a minimum of three (3) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall keep a log of all meetings attended and have the log signed by the chairperson of the meeting. Respondent will provide the Board with a copy of the signed log the first of every month.

9. In the event Respondent moves and ceases to practice medicine in Arizona, he

shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

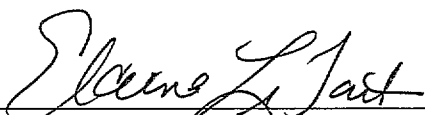
10. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

11. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

12. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 3<sup>rd</sup> day of October, 2002.

ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

By:   
Elaine LeTarte, Acting Executive Director

Served by personal service of  
sending U.S. certified mail this  
4<sup>th</sup> day of November, 2002, to:

David W. Nyman, D.O.  
11311 N. Seven Falls Drive  
Tucson, AZ 85737

Copy of the foregoing mailed this  
4<sup>th</sup> day of November, 2002, to:

Arizona Board of Pharmacy  
5060 N. 19<sup>th</sup> Ave., Suite 101  
Phoenix, Arizona 85015

Drug Enforcement Administration  
Attention: Diversion Section  
3010 N. 2<sup>nd</sup> Street  
Phoenix, Arizona 85012

Blair Driggs, Esq.  
Assistant Attorney General  
1275 W. Washington  
Phoenix, Arizona 85007 (w/enclosure)

Celina Shepherd

#379686